

Notice of Allowability

Application No.

10/796,474

Examiner

Donald L. Storm

Applicant(s)

NAKATSUYAMA, TAKASHI

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE and RESPONSE TO FINAL OFFICE ACTION, filed October 20, 2006.
2. ☒ The allowed claim(s) is/are 63,65-73,75 and 77-84.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to the Applicant, an amendment may be filed as provided by 37 CFR § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Mr. Brian M. Failing, Applicant's Representative, on December 5, 2006. The Examiner called Mr. Failing at the telephone number that appears in the declaration filed March 8, 2004 and signed by the Applicant. (See MPEP § 408.)

The application has been amended as follows:

IN THE (CLEAN-VERSION SUBSTITUTE) SPECIFICATION:

On page 1, at line 10, before "on 11/15/99", insert --as Application No. 09/439,380--.

IN THE CLAIMS:

In claim 75, line beginning *c) performing*, change "analog" to --first analog--.

In claim 79, line beginning *g) displaying*, change "g)" to --h)--.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

The Applicant's RESPONSE TO FINAL OFFICE ACTION ACCOMPANYING RCE, filed on October 20, 2006, has been entered.

Allowable Subject Matter

3. Claims 63, 65-73, 75, and 77-84 are allowed. The claims have been renumbered for printing to be claims 1, 2-10, 11, and 12-19.

Response to Amendment

4. The clean-version substitute specification (with title page and abstract) (received October 20, 2006) is present and is now the specification of record.

5. The terminal disclaimer filed on October 20, 2006 has been reviewed and is accepted. The terminal disclaimer has been recorded

6. The terminal disclaimer filed on December 6, 2006 has been reviewed and is accepted. The terminal disclaimer has been recorded

Priority

7. It is noted that the substitute specification filed October 20, 2006 causes this application to contain a specific reference to U.S. Patent No. 6,754,619 as the first sentence of the specification in order to rely on the filing date of the prior Application No. 09/439,380 under 35 U.S.C. 120.

Response to Arguments

8. The prior Office action, mailed July 20, 2006, objects to the abstract, specification, and claims, and rejects claims under 35 USC § 103, citing Kaji, alone and with others, and under the judicially created doctrine of obviousness-type double patenting. The Applicant's arguments and changes in RESPONSE TO FINAL OFFICE ACTION ACCOMPANYING RCE, filed on October 20, 2006, have been fully considered with the following results.

9. With respect to objection to the specification's use of the term "compression ratio", the changes entered by amendment remove the indicated grounds for objection. Accordingly, the objection is removed.

10. With respect to objection to the specification as not describing Fig. 2A, the Applicant's arguments appear to be as follows:

The embodiment described in the specification by reference to the figure is not required to correspond to the embodiment shown in the figure to which the specification's text refers.

The Applicant's choice carries the issue. Accordingly, the objection is removed.

11. With respect to objection to the length of the abstract, the changes entered by amendment are appropriate. Accordingly, the objection is removed.

12. With respect to objection to the claims dependent upon rejected base claims, the base claims have been allowed. Accordingly, the objections are removed.

13. With respect to objection to those claims needing clarification, the amendment provides clear descriptions of the claimed subject matter. Accordingly, the objection is removed.

14. With respect to rejection of claims under *35 USC § 103*, the changes entered by amendment include subject matter previously indicated as allowable in the current independent claims. The whole structure and interaction expressed by the combination of all limitations is not made obvious compared to the prior art of record for the whole invention of the independent claims. Accordingly, the rejections are removed.

15. The terminal disclaimer filed on December 6, 2006 is effective to overcome the double patenting rejections. Accordingly, the rejections are removed.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Storm, of Division 2626, whose telephone number is (571) 272-7614. The examiner can normally be reached on weekdays between 7:00 AM and 3:30 PM Eastern Time. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: ebc@uspto.gov. For general information about the PAIR system, see <http://pair-direct.uspto.gov>. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DONALD L. STORM
PRIMARY PATENT EXAMINER

January 25, 2007